

AMENDED IN SENATE MAY 19, 2009

AMENDED IN SENATE MAY 6, 2009

SENATE BILL

No. 534

Introduced by Senator Strickland

February 27, 2009

An act to add Section 74.8 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 534, as amended, Strickland. Property tax: new construction exclusion: small wind turbines and geothermal heat pump systems.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred.

This bill would provide that the classification as "newly constructed" for purposes of these constitutional provisions does not include the construction or addition, on or after January 1, 2010, of a small wind turbine, as defined, or geothermal heat pump system, as defined. *This bill would specify that the "construction or addition of a small wind turbine or a geothermal heat pump system" includes the construction of a small wind turbine or geothermal heat pump system in a new building, not intended to be occupied or used by the owner-builder, in which the owner-builder incorporated a small wind turbine or geothermal heat pump system in initial construction. This bill would provide this exclusion to the initial purchaser of the new building, but only if the owner-builder did not receive the exclusion for the same*

system and the initial purchaser purchased the new building prior to that building becoming subject to reassessment to the owner-builder, as provided. This bill would require the county assessor to reduce the base year value of these buildings by the value of the small wind turbine or geothermal heat pump system less the total amount of any rebates for the small wind turbine or geothermal heat pump system received by either the owner-builder or the initial purchaser of the new building, as specified.

(2) By imposing new duties on county assessors, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(4) This bill would take effect immediately as a tax levy, but would become operative only if Senate Constitutional Amendment 13 of the 2009–10 Regular Session is approved by the voters.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 74.8 is added to the Revenue and Taxation
2 Code, to read:
3 74.8. (a) Pursuant to the authority granted to the Legislature
4 pursuant to paragraph (6) of subdivision (c) of Section 2 of Article
5 XIII A of the California Constitution, the term “newly constructed,”
6 as used in subdivision (a) of Section 2 of Article XIII A of the
7 California Constitution, does not include the construction or

1 addition, on or after January 1, 2010, of a small wind turbine or
2 geothermal heat pump system.

3 *(b) Notwithstanding any other law, for purposes of this section,*
4 *“the construction or addition of a small wind turbine or geothermal*
5 *heat pump system” includes the construction of a small wind*
6 *turbine or geothermal heat pump system incorporated by the*
7 *owner-builder in the initial construction of a new building that*
8 *the owner-builder does not intend to occupy or use. The exclusion*
9 *from “newly constructed” provided by this subdivision applies to*
10 *the initial purchaser who purchased the new building from the*
11 *owner-builder, but only if the owner-builder did not receive an*
12 *exclusion under this section for the same small wind turbine or*
13 *geothermal heat pump system and only if the initial purchaser*
14 *purchased the new building prior to that building becoming subject*
15 *to reassessment to the owner-builder, as described in subdivision*
16 *(d) of Section 75.12. The assessor shall administer this subdivision*
17 *in the following manner:*

18 *(1) The initial purchaser of the building shall file a claim with*
19 *the assessor and provide to the assessor any documents necessary*
20 *to identify the value attributable to the small wind turbine or*
21 *geothermal heat pump system included in the purchase price of*
22 *the new building. The claim shall also identify the amount of any*
23 *rebate for the small wind turbine or geothermal heat pump system*
24 *provided to either the owner-builder or the initial purchaser by*
25 *the Public Utilities Commission, the State Energy Resources*
26 *Conservation and Development Commission, an electrical*
27 *corporation, a local publicly owned electric utility, or any other*
28 *agency of the State of California.*

29 *(2) The assessor shall evaluate the claim and determine the*
30 *portion of the purchase price that is attributable to the small wind*
31 *turbine or geothermal heat pump system. The assessor shall then*
32 *reduce the new base year value established as a result of the*
33 *change in ownership of the new building by an amount equal to*
34 *the difference between the following two amounts:*

35 *(A) That portion of the value of the new building attributable*
36 *to the small wind turbine or geothermal heat pump system.*

37 *(B) The total amount of all rebates, if any, described in*
38 *paragraph (1) that were provided to either the owner-builder or*
39 *the initial purchaser.*

1 (3) *The extension of the new construction exclusion to the initial*
2 *purchaser of a newly constructed new building shall remain in*
3 *effect only until there is a subsequent change in ownership of the*
4 *new building.*

5 ~~(b)~~

6 (c) For purposes of this section:

7 (1) “Geothermal heat pump system” means a system that uses
8 the constant temperature of the earth as the exchange medium for
9 energy instead of the outside air temperature.

10 (2) “Small wind turbine” means a turbine that spins on top of
11 a tower to turn the wind into usable electricity rated at a maximum
12 of 15 kilowatts.

13 SEC. 2. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.

18 SEC. 3. Notwithstanding Section 2229 of the Revenue and
19 Taxation Code, no appropriation is made by this act and the state
20 shall not reimburse any local agency for any property tax revenues
21 lost by it pursuant to this act.

22 SEC. 4. This act provides for a tax levy within the meaning of
23 Article IV of the Constitution and shall go into immediate effect.
24 However, the provisions of this act shall become operative only
25 if Senate Constitutional Amendment 13 of the 2009–10 Regular
26 Session is approved by the voters and, in that event, shall become
27 operative on January 1, 2010.